

WESTERN AUSTRALIA

FIREARMS AMENDMENT ACT 1996

(No. 59 of 1996)

ARRANGEMENT

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WESTERN AUSTRALIA

**FIREARMS AMENDMENT
ACT 1996**

No. 59 of 1996

AN ACT to amend the *Firearms Act 1973*, and as a consequence to amend the *Justices Act 1902* and the *Sentencing Act 1995*, and for related purposes.

[Assented to 11 November 1996.]

The Parliament of Western Australia enacts as follows:

PART 1 — PRELIMINARY

Short title

1. This Act may be cited as the *Firearms Amendment Act 1996*.

Principal Act

2. In this Act the *Firearms Act 1973** is referred to as the principal Act.

[* *Approved for reprint 22 April 1983.*
For subsequent amendments see 1995 Index to
Legislation of Western Australia, Table 1, p. 80 and
Act No. 27 of 1996.]

Commencement

3. (1) Subject to subsection (2), this Act comes into operation on such day as is fixed by proclamation.

(2) Section 16 comes into operation on —

- (a) the day on which the amendments made to the principal Act by the *Security and Related Activities (Control) Act 1996* come into operation; or
- (b) the day on which the other provisions of this Act come into operation,

whichever is the later.

PART 2 — GENERAL AMENDMENTS

Section 4 amended

4. Section 4 of the principal Act is amended —

- (a) in the definition of “ammunition” by inserting after “firearm” the following —

“
and also includes any primer or propellant
manufactured specifically for use in making
ammunition designed for discharge from a
firearm
”;

- (b) by inserting before the definition of “missile” the following definition —

“
“holder”, in the context of an approval given
under this Act, means the person to whom
the approval relates;
”;

and

- (c) by deleting the defined term “pistol” and substituting the following —

“ **“handgun”** ”,

and moving the resulting definition of “handgun” to its appropriate alphabetical position.

Section 5A inserted; in consequence, sections 13 and 14 repealed

5. (1) After section 5 of the principal Act the following section is inserted —

“

Delegation of Commissioner’s power to give licences, permits and approvals

5A. (1) The regulations may permit prescribed members of the Police Force to perform the Commissioner’s functions upon an application being made for the grant of an approval or permit or the issue of a licence under this Act in respect of a firearm or ammunition.

(2) Sections 58 and 59 (1) (a) and (f), (2), and (3) of the *Interpretation Act 1984* apply as if a function that a member of the Police Force may perform under subsection (1) had been delegated to the person by the Commissioner.

(3) The Commissioner may, by a signed instrument of delegation, delegate to a member of the Police Force, either generally or as otherwise provided in the instrument, any power or duty under this Act, other than —

- (a) a function the performance of which is permitted by regulations under subsection (1); and
- (b) this power of delegation.

”.

(2) Sections 13 and 14 of the principal Act are repealed.

Section 5B inserted

6. Before section 6 of the principal Act the following section is inserted —

“

Firearms Advisory Committee

5B. (1) There is to be a committee known as the Firearms Advisory Committee.

(2) The functions of the Firearms Advisory Committee are —

- (a) to consider and advise the Minister on matters relevant to this Act referred to it by the Minister;
- (b) to advise the Minister on firearm safety and firearm matters in this State; and
- (c) to advise the Minister on national firearm matters.

(3) The Firearms Advisory Committee is to consist of 7 members of whom —

- (a) one is to be an independent Chairman appointed by the Minister;
- (b) one is to be the Commissioner;
- (c) one is to be appointed by the Minister as a representative of primary producers;
- (d) one is to be appointed by the Minister as a representative of the firearms trade;
- (e) one is to be appointed by the Minister as a representative of the community;

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- (f) one is to be appointed by the Minister as a representative of the health profession; and
- (g) one is to be appointed by the Minister after consultation with organizations representing firearms users.

(4) Schedule 2 has effect.

(5) The Minister is to arrange for the Firearms Advisory Committee to have, or to have the services or use of, staff or facilities to enable it to carry out its functions.

”.

Section 6 amended

7. Section 6 of the principal Act is amended —

(a) in subsection (1) —

(i) by inserting, after “firearm” in the first place where it occurs, the following —

“

, silencer or other contrivance of a similar nature,

”;

(ii) by inserting, after “firearm” in the second place where it occurs, the following —

“ , contrivance ”; and

(iii) by inserting, after “thereto”, the following —

“ , or otherwise in the public interest ”;

and

(b) in subsection (1a) —

(i) by deleting “in the opinion of the Commissioner” and substituting the following —

“ , because of its nature or characteristics, ”;

and

- (ii) by deleting “and is therein specified” and substituting the following —

“ and which is named, or falls within a description given in, or is otherwise identified by, those regulations ”.

Section 8 amended

8. (1) Section 8 (1) of the principal Act is amended —

(a) by deleting paragraph (c);

- (b) by deleting paragraph (d) and substituting the following paragraph —

“

(d) by —

- (i) a member of the Police Force; or
(ii) an employee of the Police Department of the Public Service,

having a firearm or ammunition in his possession in preparation for, as a consequence of, or for use in, the performance of his duties;

”;

- (c) in paragraph (e), by inserting, after “firearm”, the following —

“ or ammunition ”;

- (d) by deleting paragraph (f) and substituting the following paragraph —

“

- (f) by a person permitted to do so under section 16 (2) by a body licensed by the

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Commissioner under section 16 (1) (c) who has a firearm or ammunition in his possession, or carries or uses it, in accordance with that permission;

”;

- (e) by deleting paragraph (g) and substituting the following paragraph —

“

(g) by a person who is an approved commercial carrier or approved warehouseman, or by the servant of any such person, who in the ordinary course of his trade or business as an approved commercial carrier or approved warehouseman —

(i) carries, and not by means of a bicycle or motor cycle, unless otherwise approved; or

(ii) stores,

a firearm or ammunition for another person;

”;

- (f) in paragraph (h), by inserting, after “approved firearm”, the following —

“ or ammunition for that firearm, ”;

- (g) by deleting paragraph (i) and substituting the following paragraph —

“

(i) by a person who is employed or contracted by, or is a family member (as defined in subsection (2)) of, a primary producer —

(i) to possess or use for the purpose of destroying vermin, or stock required

by that primary producer to be destroyed, on land used by that primary producer for the purposes of primary production, a firearm and ammunition belonging to and held by that primary producer under a licence or permit granted under this Act to the primary producer; or

- (ii) to possess such a firearm or ammunition while carrying it directly between 2 such pieces of land or directly between such land and any other place where it is authorized by law to be held,

if the use of the firearm and ammunition by that person is expressly authorized by the primary producer;

”;

- (h) in paragraph (j), by inserting after “operations”, in the second place where it occurs, the following —

“

, or has in his possession or uses ammunition for that firearm

”;

- (i) in paragraph (k), by deleting “belonging to”, and substituting the following —

“

or ammunition for that firearm belonging to, and held under a licence or permit granted under this Act by,

”;

- (j) in paragraph (l), by inserting, after “firearm”, the following —

“ or ammunition ”;

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(k) in paragraph (m) —

(i) by inserting, after “firearm” in the second place where it occurs, the following —

“ or ammunition for a firearm ”; and

(ii) by inserting, after “organisation”, the following —

“ and is held by that owner under a licence or permit granted under this Act ”;

and

(l) in paragraph (n) —

(i) by deleting “sixteen” and substituting the following —

“ 18 ”; and

(ii) by deleting “pistol,” and substituting the following —

“ handgun, or ammunition for that firearm ”.

(2) Section 8 (2) of the principal Act is repealed and the following subsection is substituted —

“

(2) In subsection (1) —

“**approved**” means approved by the Commissioner either generally by notice in the *Gazette* or specifically by notice in writing;

“**family member**”, in relation to a person, means —

(a) the spouse or *de facto* spouse of the person;

- (b) a parent, child, brother, or sister, of the person or of the person's spouse or *de facto* spouse; or
- (c) the spouse or *de facto* spouse of a person referred to in paragraph (b) of this definition.

”.

Section 9A inserted and transitional provision

9. (1) After section 9 of the principal Act the following section is inserted —

“

Duration and renewal of licences

9A. (1) The period for which this section provides that a licence is valid is subject to —

- (a) any other provision of this Act; and
- (b) anything endorsed on the licence,

under which the licence ceases to be valid earlier.

(2) A Firearm Collector's Licence or an Ammunition Collector's Licence is valid for a period of 5 years from the day on which it was issued or last renewed.

(3) Any other licence under this Act is valid for a period of 12 months from the day on which it was issued or last renewed.

(4) The Commissioner may, on payment of the prescribed fee, renew a licence from time to time for further periods on application made within one month before, or within 12 months after, its expiry.

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(5) Where a licence is renewed on application made within one month before, or within 3 months after, its expiry, it is deemed to have been renewed immediately after its expiry and the renewal is deemed to be a continuation of the licence.

(6) Where a licence is renewed on application made more than 3 months, but not more than 12 months, after its expiry, the renewal takes effect on and from the day on which it is effected but, for the purpose of determining the day when the renewed licence expires, it is deemed to have been renewed immediately after it previously expired.

(7) A licence cannot be renewed under this section more than 12 months after its expiry, but the person who held it is not prevented from making an application for a licence under section 18 (1).

”.

(2) For the purpose of determining when it first expires after this section comes into operation a Firearm Curio Licence that becomes a Firearm Collector’s Licence under section 15 (2) is to be regarded as if it had been renewed on the day on which this section comes into operation.

Section 10 repealed and a section substituted, and saving

10. (1) Section 10 of the principal Act is repealed and the following section is substituted —

“

Minimum age of licensee or permit holder

10. A licence or permit under this Act cannot be issued to a person under the age of 18 years.

”.

(2) The amendment made by subsection (1) does not affect the validity of a licence or permit issued before the commencement of this section.

Section 10A inserted and related provision

11. (1) After section 10 of the principal Act the following section is inserted —

“

Training courses

10A. Regulations made under section 34 may —

- (a) require that, before a licence under this Act can be issued to an applicant, the applicant is required to have successfully completed a course of training accredited in accordance with the regulations;
- (b) make provision as to the accreditation of, and conducting of, courses referred to in paragraph (a).

”.

(2) The Minister is to ensure that, within 12 months after the commencement of the provisions of this Act other than section 16 —

- (a) regulations are made in accordance with section 10A of the principal Act; and
- (b) those regulations reflect the spirit of Resolution 5 of the Special Firearms Meeting of the Australasian Police Ministers' Council on 10 May 1996.

Section 11 repealed and sections 11, 11A, 11B, and 11C substituted

12. Section 11 of the principal Act is repealed and the following sections are substituted —

“

Exercise of Commissioner's discretion

11. (1) The Commissioner cannot grant an approval or permit or issue a licence under this Act to a person if the Commissioner is of the opinion that —

- (a) to do so would be contrary to section 11A or regulations under section 11B or 11C;
- (b) it is not desirable in the interests of public safety; or
- (c) the person is not a fit and proper person to hold the approval, permit, or licence.

(2) Where the Commissioner is satisfied that a person has a history of, or a tendency towards, violent behaviour, the Commissioner may take it into account in deciding whether that person is a fit and proper person to hold an approval, permit, or licence.

(3) The Commissioner has a sufficient ground for forming an opinion that a person is not a fit and proper person to hold an approval, permit or licence under this Act if the Commissioner is satisfied that —

- (a) at any time within the period of 5 years before the person applies for the approval, permit or licence —
 - (i) the person was convicted of an offence involving assault with a weapon;
 - (ii) the person was convicted of an offence involving violence;

(iii) the person was convicted of any offence against this Act; or

(iv) a violence restraining order was made against the person,

whether in this State or in any other place; or

(b) the person fails to meet standards of mental or physical fitness that the Commissioner considers to be necessary for the person to hold the approval, permit or licence.

(4) In subsection (3) —

“violence restraining order” means a judicial order imposing on the person against whom the order is made restraints on the person’s lawful activities and behaviour to prevent the person —

(a) committing an offence against the person under Part V of *The Criminal Code*, other than Chapters XXXIV and XXXV; or

(b) behaving in a manner that could reasonably be expected to cause fear that the person will commit such an offence,

or a similar order made under the laws of any place other than this State.

(5) The Commissioner may form an opinion that a person is a fit and proper person to hold an approval, permit or licence under this Act in a case in which the Commissioner has a sufficient ground under subsection (3) for forming the contrary opinion.

(6) Subsection (3) does not limit the Commissioner’s ability, when forming an opinion as to whether a person is

a fit and proper person to hold an approval, permit or licence under this Act, to take into account —

- (a) a conviction or order made outside the period of 5 years referred to in paragraph (a) of that subsection; or
- (b) anything else that could have been taken into account if that subsection had not been enacted.

(7) Without limiting the other grounds on which an application may be refused, the Commissioner may refuse an application if satisfied that the applicant has —

- (a) failed to comply with a regulation providing for the manner in which a photograph of the applicant's face is to be supplied for inclusion on an Extract of Licence;
- (b) failed to give the Commissioner, when requested in writing by a member of the Police Force to do so, a statement in the prescribed form as to what the applicant has done, or intends to do, to ensure that any firearms or ammunition in the applicant's possession are stored in accordance with this Act; or
- (c) refused to permit a member of the Police Force to inspect the storage facilities for any firearms or ammunition that the applicant would be entitled to possess, when requested in writing by a member of the Police Force to do so.

(8) Where the Commissioner, in writing, requests an applicant for an approval, permit or licence to supply information, or further information, which the Commissioner considers to be necessary to enable the application to be properly determined, if that information is not supplied —

- (a) within 28 days, or such further period as the Commissioner may approve; and

- (b) in the manner and form requested by the Commissioner,

the application lapses and the approval, permit, or licence sought cannot be granted or issued.

Genuine reason required in all cases

11A. (1) An approval or permit cannot be granted, and a licence cannot be issued, under this Act to a person who, in the Commissioner's opinion, has not been shown to have a genuine reason for acquiring or possessing the firearm or ammunition for which the approval, permit, or licence is sought.

(2) A person has a genuine reason for acquiring or possessing a firearm or ammunition if and only if —

- (a) it is for use by the person as a member of an approved shooting club and the person is an active and financial member of the club;
- (b) it is for use by the person as a member of an organisation approved under this paragraph;
- (c) it is for use in hunting or shooting of a recreational nature on land the owner of which has given permission for that hunting or shooting;
- (d) it is required by the person in the course of the person's occupation;
- (e) it is to form part of a genuine firearm collection or genuine ammunition collection; or
- (f) it is for another approved purpose.

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(3) A person does not have a genuine reason for acquiring or possessing a firearm or ammunition of a particular kind unless the Commissioner is satisfied not only as to the person's reason for acquiring or possessing a firearm or ammunition but also that the particular kind of firearm or ammunition can be reasonably justified.

(4) The reasons described in subsection (2) (e) are not genuine reasons for acquiring or possessing a firearm or ammunition under a licence other than a Firearm Collector's Licence or an Ammunition Collector's Licence.

(5) Approval cannot be given under subsection (2) (f) to the possession of a firearm or ammunition for the purpose of personal protection.

(6) Regulations made under section 34 may limit the purposes that may be approved under subsection (2) (f).

Genuine need required in some cases

11B. (1) The regulations may provide that, for prescribed categories of firearms or ammunition, an approval or permit cannot be granted, and a licence cannot be issued, under this Act to a person unless the Commissioner is satisfied that the person has a genuine need to acquire or possess a firearm or ammunition of that category.

(2) The regulations may make provision as to the circumstances in which a person can or cannot be considered to have a genuine need to acquire or possess a firearm or ammunition of a particular category.

Other restrictions

11C. The regulations may restrict the grant, issue, or renewal of licences, permits, or approvals under this Act.

”.

Section 12 repealed and a section substituted

13. Section 12 of the principal Act is repealed and the following section is substituted —

“

Unsafe or unserviceable firearms

12. (1) Except as allowed by this section, a licence or permit cannot be issued under this Act to any person in respect of any firearm which in the opinion of the Commissioner is —

- (a) unsafe; or
- (b) unserviceable.

(2) Subsection (1) does not prevent the issue to a dealer of a licence or permit in respect of a firearm for the purpose of enabling it to be tested, repaired, or dismantled for parts.

(3) Subsection (1) does not prevent the issue of a permit in respect of a firearm for the purpose of enabling it to be conveyed —

- (a) to a dealer or the holder of a Repairer's Licence; or
- (b) to any other person authorized to take possession of it.

(4) Subsection (1) (b) does not prevent the issue to a person of —

- (a) a Firearm Collector's Licence; or
- (b) a permit in respect of a firearm that forms or is to form part of a genuine firearm collection.

”.

Section 15 repealed and a section substituted

14. Section 15 of the principal Act is repealed and the following section is substituted —

“

Firearm collections

15. (1) For the purposes of this Act a firearm can form part of a genuine firearm collection only if, in the opinion of the Commissioner, it has significant commemorative, historical, thematic, heirloom, or sentimental value.

(2) The fact that there is only one firearm in a collection does not prevent it from being a genuine firearm collection for the purposes of this Act.

”.

Section 16 amended and transitional provision

15. (1) Section 16 of the principal Act is amended —

(a) by inserting after the section designation “**16.**” the subsection designation “(1)”;

(b) in paragraph (b), by deleting “Curio” and substituting the following —

“ Collector’s ”;

(c) in paragraph (c) —

(i) by deleting “of its employees” and substituting the following —

“ person to whom subsection (2) applies ”;

- (ii) in subparagraph (ii), by deleting “his employment generally” and substituting the following —

“
carrying out a function approved by the
Commissioner and authorized by that
organisation
”;

and

- (iii) by deleting “as is in that licence specified” and substituting the following —

“
in accordance with the terms, restrictions,
limitations and conditions applicable to
that licence
”;

- (d) in paragraph (d) —

- (i) by inserting after “licence,” the following —

“
to receive firearms for the purpose of their
being dismantled for parts, and to arrange
for the repair or servicing of firearms by
the holder of a Repairer’s Licence,
”;

and

- (ii) by deleting “carry and use any firearm and ammunition therefor” and substituting the following —

“
have in his possession, and to carry in the
ordinary course of the business of that

dealer, any such firearm or ammunition or
to use it

”;

- (e) by deleting paragraph (e) and substituting the following paragraph —

“

(e) a Repairer’s Licence, which entitles the holder to —

(i) repair firearms belonging to persons who are authorized by this Act or any other law to possess them; and

(ii) possess ammunition for those firearms,

on the premises named and identified in that licence, and authorizes the holder or an employee or partner of the holder to have in his possession, and to carry in the ordinary course of the business of that repairer, any such firearm or ammunition and to use any such firearm or ammunition for the purpose of testing it;

”;

- (f) in paragraph (f) —

(i) by deleting “in the ordinary way of business”;

and

(ii) by deleting “carry and” and substituting the following —

“

have in his possession, and to carry in the ordinary course of the business of that

manufacturer, any such firearm or
ammunition and to
”;

- (g) at the end of paragraph (g), by deleting the full stop and substituting the following —

“ ; and ”;

- (h) by inserting after paragraph (g) the following paragraph —

“
(h) an Ammunition Collector’s Licence, which entitles the holder to possess and carry, but not to use, ammunition not exceeding such quantity as may be specified in that licence and not being of a type prescribed as being ammunition to which such a licence does not apply.
”;

and

- (i) by inserting at the end of the section the following subsection —

“
(2) An organisation which holds a Corporate Licence may permit a person who is —
(a) an employee of that organisation;
(b) in respect to any particular act or omission authorized by the organisation —
(i) an agent of the organisation; or

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(ii) a person acting at the request of
and on behalf of the
organisation;

or

(c) a person employed in the Public
Sector by or under an employing
authority, within the meaning of the
Public Sector Management Act 1994,
who is required or authorized by the
organisation to act on behalf of the
organisation in respect to a relevant
act or omission,

to possess, carry or use a firearm or ammunition
in accordance with that licence.

”.

(2) A Firearm Curio Licence that is in force under the
principal Act immediately before the commencement of
subsection (1) (b) becomes a Firearm Collector’s Licence on the
commencement of that provision.

Section 16A amended

16. Section 16A of the principal Act is amended by deleting
“section 16 (c)” and substituting the following —

“ section 16 (1) (c) ”.

Section 17B amended

17. Section 17B (8) of the principal Act is amended in the
definition of “Corporate Licence” by deleting “section 16 (c)” and
substituting the following —

“ section 16 (1) (c) ”.

Section 18 amended

18. Section 18 of the principal Act is amended —

- (a) by repealing subsections (2), (3), and (3a);
- (b) by repealing subsection (4) and substituting the following subsections —

“

(4) The fee payable on the issue of —

- (a) a Firearm Collector's Licence or an Ammunition Collector's Licence that is to remain in force for a period of less than 5 years is the prescribed fee reduced proportionately by one-sixtieth for each month or portion of a month;
- (b) a licence of any other kind that is to remain in force for a period of less than 12 months is the prescribed fee reduced proportionately by one-twelfth for each month or portion of a month.

(4a) Before granting or issuing a licence, permit, or approval to a person under this Act the Commissioner is to ensure that, for the purpose of forming an opinion as to whether the person is a fit and proper person to hold the licence, permit, or approval —

- (a) reference has been made where practicable to relevant criminal records held by the police forces in this State and elsewhere in Australia;

- (b) if there is any apparently reliable indication that the person may not meet standards of mental or physical fitness referred to in section 11 (3) (b), sufficient evidence has been provided to the Commissioner to satisfy the Commissioner that the person does meet those standards; and
- (c) if there is any apparently reliable indication that for any other reason the person may not be a fit and proper person to hold the licence, permit, or approval, sufficient evidence has been provided to the Commissioner to satisfy the Commissioner that the person is a fit and proper person to hold the licence, permit, or approval.

(4b) The evidence that the Commissioner may require before being satisfied that the person meets standards of mental or physical fitness referred to in section 11 (3) (b) may include a certificate from a medical practitioner to the effect that the person has been examined and has not been found to have any physical or mental condition that could reasonably result in the person being considered not to be a fit and proper person to hold a licence, permit, or approval under this Act.

(4c) On being provided with a certificate from a medical practitioner as required under subsection (4b), the Commissioner may request from the medical practitioner any further information that the Commissioner considers to be relevant and nothing prevents the medical practitioner from providing the Commissioner in

good faith with further information about the person.

(4d) Subsection (4c) has effect despite any duty of confidentiality, and the provision of information in good faith as requested under that subsection does not give rise to a criminal or civil action or remedy.

”;

- (c) by repealing subsection (6) and substituting the following subsection —

“

(6) If the Commissioner is satisfied that —

- (a) the requirements of this section have been satisfied;
- (b) there are no grounds upon which the application ought to be refused; and
- (c) in the case of an application for the first issue of a Firearm Licence to a person, a period of at least 28 days has elapsed since the making of the application and the applicant has, under subsection (6a), confirmed the desire to proceed with the application,

the Commissioner is to enter the prescribed particulars in a Register to be compiled and maintained for the purpose and issue to the applicant a licence or permit under this Act.

”;

- (d) by inserting after subsection (6) the following subsection —

“

(6a) An applicant for the first issue of a Firearm Licence may, during the period

commencing 28 days after the day on which the application was made and ending a further 28 days after that day, confirm the desire to proceed with the application, and if the applicant does not do so the application lapses and the licence sought cannot be issued.

”;

- (e) by deleting subsection (8) and substituting the following subsection —

“

(8) Where the Commissioner refuses an application, whether original or by way of renewal, or issues it subject to any restriction, limitation or condition, the Commissioner is to forthwith notify the applicant, in writing, of the reasons for the decision.

”;

- (f) in subsection (10) —

- (i) by deleting “Subject to subsection (2) of section 13, where a Firearm Licence” and substituting the following —

“ Where a licence ”; and

- (ii) by inserting after “for an additional licence” the following —

“ of the same kind ”;

- (g) by inserting after subsection (10) the following subsection —

“

(10a) The power given by subsection (10) cannot be performed under section 5A by a member of the Police Force unless that member could, under that section, grant the licence for which application was made.

”;

and

- (h) by inserting after subsection (11) the following subsections —

“

(12) Where an applicant for a licence, permit or approval under this Act fails to provide to the Commissioner, on being requested in writing to do so, any information as to —

- (a) any other person who is to be concerned in, or responsible for, the management of any business or premises to which the application relates; or
- (b) any employee or agent of the applicant or any person concerned in, or responsible for, management,

the Commissioner may regard the granting or issuing of the licence, permit or approval to the applicant as not desirable in the public interest.

(13) Where a person who is the holder of a licence, permit or approval under this Act fails to provide to the Commissioner, on being requested in writing to do so, any information as to —

- (a) any other person who is to be, or is, concerned in, or responsible for, the management of any business or premises to which the licence, permit or approval relates; or
- (b) any employee or agent of the holder or any person concerned in, or responsible for, management,

the Commissioner may consider the holder as being no longer a fit and proper person but only after the holder has been given an opportunity to make a submission to the Commissioner under section 20 (1a).

”.

Section 19 amended

19. Section 19 of the principal Act is amended —

(a) in subsection (1), by repealing all of the subsection except the penalty provision and substituting the following —

“

(1) Any person who —

- (a) sells, delivers or disposes of;
- (b) purchases or otherwise comes into possession of; or
- (c) is in possession of,

any firearm or ammunition and is not the holder of a licence or permit under this Act entitling him to do so commits an offence unless subsection (1aa) provides otherwise or section 8 applies.

”;

(b) by inserting before subsection (1a) the following subsection —

“

(1aa) Subsection (1) does not apply to coming into, or being in, possession of ammunition under section 30 (2) as the agent of a person to whom it is, or is to be, delivered as soon as is reasonably practicable.

”;

- (c) by deleting subsection (1a) and substituting the following subsection —

“

(1a) For the purposes of applying the penalty provisions of subsection (1), a firearm is of one of the kinds prescribed for the purposes of that provision by the regulations.

”;

- (d) in subsection (2), by repealing all of the subsection except the penalty provision and substituting the following —

“

(2) A person who —

- (a) sells, delivers, or disposes of a firearm or ammunition to another person, or otherwise permits another person to take possession of a firearm or ammunition;
- (b) purchases, or otherwise comes into, possession of a firearm or ammunition from another person; or
- (c) permits another person to be in possession of a firearm or ammunition,

commits an offence if the other person is not the holder of a licence or permit under this Act entitling him to possession of it unless it is a disposal of ammunition under section 30 (2) or section 8 applies.

”;

and

- (e) by repealing subsection (3).

Section 19A amended

20. (1) Section 19A (1) of the principal Act is amended by deleting “paragraph (a) of subsection (3) of section 18” and substituting the following —

“ section 9A (5) ”.

(2) Section 19A of the principal Act is amended —

(a) in subsection (1), by deleting “firearm licence” and substituting the following —

“
Firearm Licence, Firearm Collector’s
Licence, or Ammunition Collector’s Licence
”;

and

(b) in subsection (2), by deleting “his licence” in the first place where it occurs and substituting the following —

“ a licence of a kind specified in subsection (1) ”.

Section 20 amended

21. Section 20 of the principal Act is amended —

(a) in subsection (1) —

(i) by deleting paragraph (a) and substituting the following paragraph —

“
(a) that a person who is the holder of a
licence, permit or approval under this
Act —

(i) obtained it by fraud or
deception;

- (ii) has breached or failed to observe a restriction, limitation or condition to which it is subject; or
 - (iii) could not, because of section 11, be granted the approval or permit or issued the licence, as the case requires, if the person were then applying for it;
- ”;
- (ii) in paragraph (aa), by inserting after “firearm” the following —
 - “ or ammunition ”;
 - (iii) by inserting after paragraph (aa) the following paragraphs —
 - “
 - (ab) that a licence or permit was issued, or an approval was given, incorrectly because of an administrative or procedural error;
 - (ac) that to do so is in the public interest;
 - (ad) that a person holding or applying for the renewal of a licence, permit or approval has —
 - (i) failed to comply with a regulation providing for the manner in which a photograph of that person’s face is to be supplied for inclusion on an Extract of Licence;

(ii) failed to give the Commissioner, when requested in writing by a member of the Police Force to do so, a statement in the prescribed form as to what the person has done to ensure that any firearms or ammunition in the person's possession are stored in accordance with this Act; or

(iii) contrary to section 23 (9) (e), refused to permit a member of the Police Force to inspect storage facilities;

”;

and

(iv) by inserting before “revoke” the following —

“ refuse to renew or may ”;

(b) by inserting after subsection (1) the following subsection —

“

(1a) Where the Commissioner, in writing, requests a person who is the holder of any licence, permit, or approval to —

(a) supply information, or further information, that the Commissioner considers to be necessary in order to determine whether or not the holder remains a fit and proper person; or

(b) make a submission to show cause why the power of revocation should not be exercised,

if that information is not supplied, or that submission is not made, to the Commissioner in a form acceptable to the Commissioner within 28 days, or such further period as the Commissioner may approve, the licence, permit or approval may be revoked.

”;

and

- (c) in subsection (3) —
 - (i) by inserting a comma, after “holder”; and
 - (ii) by deleting “and the notification shall be accompanied by a written statement”.

Section 21 amended

22. Section 21 of the principal Act is amended —

- (a) in subsection (1) (a) —
 - (i) by inserting before “specified” the following —

“ either ”; and
 - (ii) by inserting after “approval” the following —

“
or, whether imposed at the time of issue or grant or subsequently, specified in a supplementary document

”;

and

(b) in subsection (2) —

(i) by inserting after “A person” the following —

“
 , whether or not the holder of that licence,
 permit or approval,
”;

and

(ii) by inserting after “subject” the following —

“
 , and who is a person who ought reasonably
 to have known of the existence of that
 restriction, limitation or condition,
”.

Sections 21A and 21B inserted

23. After section 21 of the principal Act the following sections are inserted —

“

Supervision and management

21A. (1) The conduct of business under a Dealer’s Licence, a Repairer’s Licence or a Manufacturer’s Licence is always the responsibility of the holder and is to be personally supervised and managed, on each premises to which the licence applies, by —

- (a) the holder; or
- (b) a person appointed as the agent or employee of the holder.

(2) Where in respect of a business of a kind to which subsection (1) applies —

- (a) a requirement is made of the holder of the licence under which that business is conducted;

- (b) a restriction, limitation or condition applies to that licence; or
- (c) an element of an offence under this Act is an act or omission on the part of the holder of that licence,

and a person is appointed, employed or permitted by the holder to conduct that business on any premises, if that requirement, restriction, limitation or condition is contravened by that person, or such an offence occurs because of an act or omission on the part of that person, that person as well as the holder is liable accordingly, and a complaint for an offence may be made out against that person either in addition to, or in substitution for, the holder.

(3) Where, in contravention of any requirement, restriction, limitation or condition to which any licence, permit or approval held by a person under this Act is subject —

- (a) any agent or employee of the holder; or
- (b) any other person acting or purporting to act on behalf of the holder,

does or omits to do any act on the premises to which the licence, permit or approval relates and for which the holder would have been liable under this Act had it been done or omitted by the holder, the holder is deemed also to have done or omitted to do that act and is liable to the same penalty as is prescribed for the contravention.

(4) The holder of the licence, permit or approval may be proceeded against and convicted under subsection (3) notwithstanding that the person contravening the requirement, restriction, limitation or condition has not been proceeded against or has not been convicted under this Act.

Offences by bodies corporate and partnerships

21B. (1) Where an offence under this Act is found to have been committed in the course of the business carried on under a Dealer's Licence, a Repairer's Licence or a Manufacturer's Licence by a body corporate, then —

- (a) if the offence is found —
 - (i) to have been committed with the consent or connivance of; or
 - (ii) to be attributable to any failure to take all reasonable steps to secure compliance by the body corporate with this Act on the part of,

any officer or other person concerned in the management of the body corporate, or any person purporting to act in any such capacity, that person as well as the body corporate is liable accordingly and is deemed to have committed an offence;

and

- (b) where the offence was committed by an agent or employee of the body corporate, unless it is proved that —
 - (i) such direction had been given; and
 - (ii) such supervision had been exercised or caused to be exercised,

as were reasonably necessary to ensure that an offence against this Act was not committed, the person responsible to the body corporate for the management of any premises in respect of which the offence was committed is deemed to have also committed an offence,

and each is liable to the same penalty as is prescribed for the principal offence.

(2) A person referred to in subsection (1) may, on the request of the complainant, be convicted on the proceedings on which the body corporate is convicted if the court is satisfied that the person had reasonable notice that the complainant intended to make that request.

(3) In this section —

“**officer**”, in relation to a body corporate, includes a person who is an officer of the body corporate within the meaning of section 9 of the Corporations Law.

(4) Where the affairs of a body corporate are managed by its members, subsection (1) applies in relation to the acts and defaults of a member in connection with functions of management as if the member were a director of the body corporate.

(5) Where this Act provides that the holder of a licence, permit or approval commits an offence in specified circumstances —

- (a) any reference to the holder is a reference to each person who holds the licence, permit or approval; and
- (b) if that licence, permit or approval is held by a person who is a member of a partnership which is directly or indirectly interested in the business conducted under that licence, permit or approval, or the profits or proceeds of the business, each member of the partnership is liable for the offence.

”.

Section 22 repealed and a section substituted

24. Section 22 of the principal Act is repealed and the following section is substituted —

“

Appeals

22. (1) In this section —

“**appeal**” means an appeal under subsection (2);

“**decision**” includes a restriction, limitation or condition imposed under this Act;

“**firearms appeals tribunal**” means a firearms appeals tribunal constituted under Schedule 3;

“**magistrate**” means a magistrate sitting alone as a court of petty sessions.

(2) A person aggrieved by a decision made by or on behalf of the Commissioner may, within 2 months of receiving written advice of the decision, appeal against the decision on the ground that the Commissioner erred in the making of the decision.

(3) An appeal may be made to a magistrate or a firearms appeals tribunal but the commencement of an appeal to one extinguishes any right of appeal to the other.

(4) An appeal is to be commenced by written notice given in the manner prescribed.

(5) Schedule 3 has effect in relation to —

(a) the constitution and powers of firearms appeals tribunals;

(b) the members of firearms appeals tribunals;

- (c) the procedure to be followed on an appeal to a firearms appeals tribunal; and
- (d) other matters relating to firearms appeals tribunals and appeals to them.

(6) Subsection (5) does not affect the operation of section 34 (2) (c).

(7) A magistrate or firearms appeals tribunal to whom or which an appeal is made shall consider the appeal and may confirm, vary or set aside the decision appealed against and, if the decision is set aside, may —

- (a) make a decision in substitution for the decision set aside; or
- (b) remit the matter for reconsideration in accordance with any directions or recommendations that are considered appropriate.

(8) Before determining an appeal in a way that —

- (a) causes the issue or grant of a licence, permit or approval; or
- (b) varies or sets aside a restriction, limitation or condition to which a licence, permit or approval is subject,

the magistrate or firearms appeals tribunal shall give the Commissioner the opportunity to submit that any, or any other, restriction, limitation or condition should be imposed and shall give due regard to any submission made by the Commissioner.

(9) In determining an appeal a magistrate may make any other order, including an order as to costs, that the magistrate thinks fit.

”.

Section 23 amended

25. Section 23 of the principal Act is amended —

(a) in subsection (1) —

- (i) by deleting “knowingly”; and
- (ii) by deleting “intoxicated or excited by reason of his being under the influence of” and substituting the following —

“ affected by ”;

(b) in subsection (2), by deleting “intoxicated or excited by reason of being under the influence of” and substituting the following —

“ affected by ”;

(c) by repealing subsections (3) and (4) and substituting the following subsection —

“
(3) Unless he holds a licence or permit under this Act entitling him to do so or section 8 applies, a person who carries or uses a firearm commits an indictable offence and is liable —

(a) if the firearm concerned was a handgun, on conviction, to imprisonment for 5 years;

or

(b) otherwise, to imprisonment for 18 months or a fine of \$6 000.

Summary conviction penalty in a case to which paragraph (a) applies:
Imprisonment for 2 years or a fine of \$8 000.

”;

- (d) in subsection (5) (b) —
 - (i) by inserting after “mark” the following —

“ , whether or not a number or mark ”;

and
 - (ii) by inserting a comma after “thereto”;
- (e) in subsection (5), by deleting paragraph (c) and substituting the following paragraph —

“

 - (c) alters a firearm —
 - (i) from the design or characteristics of its original manufacture; or
 - (ii) so that its calibre, character or kind differs from what it was when any current licence or permit relating to it was issued,

or is in possession of a firearm that has been so altered,

”;
- (f) in subsection (7a) (a), by inserting after “Police Force” the following —

“

or an employee of the Police Department of the Public Service

”;
- (g) in subsection (9) —
 - (i) in paragraph (a), by deleting “having possession of a” and substituting the following —

“

whilst carrying, or in actual physical possession of, or having the custody or

control otherwise than by way of storage of,
any
”;

(ii) in paragraph (b), by deleting “sixteen” and substituting the following —

“ 18 ”;

(iii) in paragraph (c), by deleting “knowingly”;

(iv) at the end of paragraph (c), by deleting the comma and substituting a semicolon; and

(v) by inserting after paragraph (c) the following —

“

(d) being responsible for the storage of any firearm or ammunition, fails —

(i) to provide and use adequate storage facilities to ensure its safety;

(ii) where prescribed requirements as to security are specified in relation to a firearm or ammunition of a prescribed kind, to ensure that those requirements are observed; or

(iii) otherwise, to safeguard it from loss or improper use;

or

(e) being responsible for the storage of any firearm or ammunition, refuses to permit a member of the Police Force to inspect the storage facilities provided, at a reasonable time after such an inspection is requested in

writing by the member of the Police Force,

”;

and

(h) in subsection (9a), by deleting “knowingly”.

Sections 23A and 23B inserted

26. After section 23 of the principal Act the following sections are inserted —

“

Limitation periods

23A. A complaint for an offence against section 19 (1), 19 (2), 22C, 23 (5) (c), 23 (9) (a), 23 (9) (d), 24 (6) (b), 30B (1) or 30B (2) may be made at any time within 2 years from the time when the matter of complaint arose.

Disclosure by doctors of certain information

23B. (1) If a medical practitioner is of the opinion that —

- (a) because of the patient’s physical, mental, or emotional condition, it is not in the person’s interest or not in the public interest that the person possess any firearm or ammunition to which the patient is believed to have access; or
- (b) a person is seeking or has sought medical assistance for an injury in the infliction of which a firearm or ammunition is believed to have been involved,

nothing prevents the medical practitioner in good faith from informing the Commissioner of that opinion.

(2) This section has effect despite any duty of confidentiality, and nothing done by a medical practitioner in good faith in accordance with this section gives rise to a criminal or civil action or remedy.

”.

Section 24 amended

27. Section 24 of the principal Act is amended —

(a) in subsection (2), by inserting after “person”, in the first place where it occurs, the following —

“ , whether or not the person is ”;

(b) by inserting after subsection (2) the following subsection —

“

(2a) For the purpose of exercising the powers given by subsection (2), a member of the Police Force may enter and search any premises on which, in the opinion of the member of the Police Force, there are reasonable grounds to suspect that any firearm or ammunition may be found in the possession of a person in the circumstances described in that subsection.

”;

(c) in subsection (3), by deleting “that firearm is unsafe or unfit for use” and substituting the following —

“

any such firearm, the possession of which is not authorized under a Firearm Collector’s Licence, is unsafe or unserviceable

”;

- (d) by inserting after subsection (6) the following subsections —

“

(7) The powers given by this section to a member of the Police Force may be exercised without warrant except that the powers given by subsection (2a) can only be exercised without warrant if the member of the Police Force —

(a) is reasonably of the opinion that —

(i) there is an immediate threat of harm being suffered by a person;

and

(ii) the delay that would be involved in obtaining a warrant would be likely to increase the risk or extent of such harm;

and

(b) gives the Commissioner, after the powers are exercised, a written report explaining the reason for that opinion.

(8) The regulations may make provision as to —

(a) the giving of the report required by subsection (7) (b);

(b) the steps that are required to be taken after any firearm or ammunition has been seized and taken under subsection (2).

(9) For the purposes of this section the term “**firearm**” is deemed to include any silencer, within the meaning of section 17B (8), and any part of a firearm.

”;

and

- (e) by deleting “, without warrant,” in each place where it occurs in subsections (1), (2), (3), and (4).

Section 26 repealed and a section substituted

28. Section 26 of the principal Act is repealed and the following section is substituted —

“

Search warrant

26. (1) Where a Justice is satisfied that there are reasonable grounds for suspecting that there is in any place any firearm or ammunition, or any document or other thing —

- (a) with respect to which under any written law an offence, involving any firearm, ammunition, silencer or other contrivance used in conjunction with a firearm, has been or is suspected, on reasonable grounds, to have been committed; or
- (b) that, there are reasonable grounds for believing —
- (i) will afford evidence as to the commission of any such offence; or
- (ii) is intended to be used for the purpose of committing any such offence,

the Justice may grant to a member of the Police Force a warrant to enter and search such place for any such firearm, ammunition or other thing, and to seize and take any such firearm, ammunition or other thing found before a Justice to be dealt with according to law.

(2) Where a Justice is satisfied that there are reasonable grounds to suspect that any firearm or ammunition may be found on premises in the possession of a person in the circumstances described in section 24 (2), the Justice may grant to a member of the Police Force a warrant to enter and search such premises for the purpose of exercising the powers given by that subsection.

”.

Section 27A inserted

29. Before section 28 of the principal Act the following section is inserted —

“

Disqualification by court imposing restraining order

27A. (1) A court making a violence restraining order against a person may order that, for a term set by the court or until a court orders to the contrary, the person be disqualified from holding or obtaining any licence, permit, or approval, or any particular licence, permit, or approval, under this Act.

(2) In subsection (1) —

“violence restraining order” has the same meaning as it has in section 11 (4).

(3) If an order under subsection (1) disqualifies a person from holding any licence, permit, or approval already held by the person when the disqualification order is made, the licence, permit, or approval held is, by force of

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this section, suspended and has no effect for so long as the disqualification order is in force.

(4) The court is to ensure that details of the restraining order and the disqualification order are made known to the Commissioner as soon as is practicable.

”.

Section 28 amended

30. Section 28 of the principal Act is amended —

(a) by deleting “under this Act” and substituting the following —

“ for any offence whatever under any written law ”;

and

(b) by inserting after “ammunition” in each place where it occurs the following —

“ , silencer or other thing to which this Act applies ”.

Section 29 amended

31. Section 29 of the principal Act is amended —

(a) by inserting after the section designation “**29.**” the subsection designation “(1)”;

(b) in paragraph (a), by deleting “at a particular time a person was not” and substituting the following —

“

a person is, or at a particular time was or was not,

”;

- (c) by deleting paragraph (b) and “or” after that paragraph and substituting the following paragraph —

“

- (b) that a person, place, organisation or thing is, or at a particular time was or was not, the subject of a particular approval granted by the Commissioner for a particular purpose under this Act;

”;

- (d) at the end of paragraph (c), by deleting the comma and substituting a semicolon;

- (e) by inserting after paragraph (c) the following —

“

- (d) that a particular licence, permit or approval issued or granted under this Act was, at a particular time, subject, to a particular restriction, limitation or condition;

- (e) that a person named in the complaint is, or at a particular time was —

- (i) a member of the Police Force acting with the authority of the Commissioner; or

- (ii) a member of the Police Force to whom a particular function has or had been delegated by the Commissioner;

- (f) that an authorization or delegation granted by the Commissioner under this Act is, or at a particular time was, subject to a particular condition; or

- (g) that particular premises were a place to which an approval or a requirement under this Act applies, or at a particular time applied,
- ”;

and

- (f) by inserting at the end of the section the following subsection —

“

(2) In any proceedings under this Act a document or writing purporting to be, or to be a copy of or extract from, any licence, permit, approval or other document issued under this Act, or provided or produced to the Commissioner or a member of the Police Force in connection with any application or request for information under this Act —

- (a) is evidence which is admissible, and is to be accepted as to the matter contained in the document in the absence of proof to the contrary; and
- (b) if it is proved to be an examined copy or extract, purporting to be signed and certified as such by or on behalf of the Commissioner, is for all purposes sufficient evidence of the matter contained in the original without producing the original.

”.

Section 30 amended

32. Section 30 of the principal Act is amended —

(a) in subsection (1) —

(i) by deleting “Firearm Licence” and substituting the following —

“ licence or permit under this Act entitling him to possess a firearm and ammunition ”;

and

(ii) by inserting after “that ammunition” the following —

“ , or as being the holder of an Ammunition Collector’s Licence ”;

and

(b) in subsection (3), by inserting, before “obtain”, the following —

“ cause verification of that transaction to be entered in, or affixed to, the record in the prescribed manner or ”.

Sections 30A and 30B inserted

33. After section 30 of the principal Act the following sections are inserted —

“ **Sale and disposal of firearms**

30A. (1) A person who, except as described in subsection (2), advertises that a firearm is for sale is

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required to ensure that the advertisement includes details of the type, make, serial number, and calibre of the firearm.

(2) The holder of a Dealer's Licence or a Manufacturer's Licence who advertises for sale a firearm to which the licence relates is required to ensure that the advertisement includes —

- (a) the licence number; and
- (b) either the business name or such other details as are sufficient to identify the holder of the licence.

(3) A person who sends a firearm by post to a destination that is outside the State —

- (a) is required to address the firearm to premises at which the business of a dealer may lawfully be carried on; and
- (b) is not to send ammunition in the package containing the firearm.

Penalty: \$1 000.

Loss, theft, destruction, or disposal out of the State, to be reported

30B. (1) Where any person entitled under an Act of the State or the Commonwealth to possess a firearm or any ammunition —

- (a) loses the firearm or ammunition, whether or not by theft; or
- (b) becomes aware that the firearm has been destroyed, otherwise than by the authority of the Commissioner under this Act,

that person is required, as soon as is practicable, to report the loss or destruction to the Commissioner.

(2) Where any person entitled under this Act to possess a firearm disposes of that firearm —

- (a) in a place outside the State; or
- (b) to a destination outside the State,

that person is required, as soon as is practicable, to report to the Commissioner the details of the firearm concerned; the manner and date of its disposal; the name, address, and, in the case of a person other than a dealer in firearms, the birth date of any person taking possession of the firearm; and the number, expiry date and nature of any licence, permit or other authorization to possess a firearm held by that person.

Penalty: \$1 000.

”.

Section 31 amended

34. Section 31 of the principal Act is amended —

- (a) in subsection (1), by deleting “, and the records shall be available for inspection on payment of the prescribed fee”;
- (b) in subsection (2) —
 - (i) by deleting “or”, and substituting a comma;
 - (ii) by inserting after “Manufacturer’s Licence” the following —

“ or an Ammunition Collector’s Licence ”;

and

(iii) by inserting after “relate” the following —

“
or, in the case of a transaction involving
the acquisition of ammunition by a person
who is entitled to acquire it as the holder of
an Ammunition Collector’s Licence, as soon
as may be practicable thereafter
”;

(c) in subsection (3) —

(i) by deleting “of this section” and substituting the
following —

“
, or ammunition held by a person who is
the holder of an Ammunition Collector’s
Licence
”;

and

(ii) by inserting after “such firearms” the
following —

“ or ammunition ”;

and

(d) by inserting after subsection (3) the following
subsection —

“
(4) A person who contravenes subsection (2)
or (3) commits an offence.

Penalty: \$2 000.
”.

Section 32 amended

35. Section 32 of the principal Act is amended by inserting at the end of the section the following —

“ Penalty: \$2 000. ”.

Section 33 amended

36. Section 33 of the principal Act is amended —

(a) in subsection (1), by deleting “police officer” and substituting the following —

“ member of the Police Force ”; and

(b) in subsection (2), by deleting “otherwise” and substituting the following —

“
but if the owner is not known or if after reasonable inquiry the Commissioner is of the opinion that the owner although known can not be contacted
”.

Section 34 amended

37. (1) Section 34 (2) of the principal Act is amended —

(a) in paragraph (g), by inserting after “possession” the following —

“
and for restricting the amount of ammunition that may be possessed
”;

and

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(b) by inserting after paragraph (g) the following paragraph —

“ (ga) the sending or conveyance of firearms or ammunition; ”.

(2) Section 34 (3) (b) of the principal Act is amended by deleting “charges” and substituting the following —

“ fees ”.

Schedules 2 and 3 inserted

38. After Schedule 1 to the principal Act the following Schedules are inserted —

“

SCHEDULE 2 — FIREARMS ADVISORY COMMITTEE

[s. 5B]

Definitions

1. In this Schedule —

“**appointed member**” means a member of the Committee appointed under section 5B (3) (a), (c), (d), (e), (f) or (g);

“**Committee**” means the Firearms Advisory Committee established by section 5B (1).

Tenure of office

2. (1) Subject to subclauses (2) and (3), an appointed member holds office for such period, not exceeding 2 years, as is specified in the member’s instrument of appointment, and is eligible for reappointment.

(2) An appointed member may resign from office by written notice to the Minister.

(3) An appointed member may be removed from office by the Minister —

- (a) for mental or physical disability, incompetence, neglect of duty or misconduct that impairs the performance of the member's duties;
- (b) if the member is an insolvent under administration, as that expression is defined in the Corporations Law;
- (c) if the member is absent without leave from 2 consecutive meetings of the Committee of which the member has had notice; or
- (d) for any other act or omission that in the Minister's opinion —
 - (i) makes it inappropriate for the member to continue as a member; or
 - (ii) may adversely affect the functioning of the Committee.

Deputy members

3. (1) The Minister may appoint a person to be the deputy of a member of the Committee other than the Commissioner, and may revoke the appointment.

(2) The Commissioner may appoint a person to be the deputy of the Commissioner as a member of the Committee, and may revoke the appointment.

(3) A person who is the deputy of a member may attend any meeting of the Committee at which the member is not present and, when so attending, has all the powers, duties and entitlements of the member.

Meetings

4. (1) The Committee is to determine the procedure for convening and conducting its meetings.

(2) At a meeting of the Committee —

(a) the Chairman or, if the Chairman is absent, the Chairman's deputy, is to preside; or

(b) in the absence of both of them, a member chosen by the members present is to preside.

(3) The Committee is to record and maintain minutes of its meetings.

Remuneration

5. (1) Subject to subclause (2), an appointed member is entitled to such remuneration and allowances in respect of the performance of the member's functions under this Act as the Minister from time to time determines on the recommendation of the Minister for Public Sector Management.

(2) Subclause (1) does not apply to a person employed in the Public Service.

SCHEDULE 3 — FIREARMS APPEALS TRIBUNALS

[s. 22]

Definitions

1. In this Schedule —

“**appeal**” and “**decision**” have the same meanings as they have in section 22;

“**appellant**” means the person by whom an appeal is made;

“**CSM**” means the Chief Stipendiary Magistrate within the meaning of the *Stipendiary Magistrates Act 1957*;

“respondent” means the person who made the decision that is the subject of an appeal;

“tribunal” means a firearms appeals tribunal constituted under this Schedule.

Constitution and status of tribunals

2. (1) The CSM is to constitute one or more tribunals for the purposes of this Schedule, each consisting of —

- (a) a presiding member, being a magistrate selected by the CSM from the panel created under clause 3 (1); and
- (b) 2 associate members, one being a person selected by the CSM from the panel created under clause 3 (3) and the other being a person selected by the CSM from the panel created under clause 3 (5).

(2) The CSM is to cause written notice of the constitution of a tribunal to be given to its members.

(3) A person may be a member of more than one tribunal.

(4) The CSM may, by written notice to a member, remove that member from a tribunal.

(5) A tribunal is not a court and a person does not have any judicial status by reason of being a member of a tribunal.

Panels for selection of tribunal members

3. (1) A panel of magistrates is to be created for the purpose of clause 2 (1) (a).

(2) The panel created under subclause (1) is to consist of magistrates nominated by the CSM and appointed to the panel by the Governor.

(3) A panel of nominees of the Commissioner is to be created for the purpose of clause 2 (1) (b).

(4) The panel created under subclause (3) is to consist of persons appointed to the panel by the Governor on the recommendation of the Minister after being nominated to the Minister by the Commissioner.

(5) A panel of persons representing firearms users is to be created for the purpose of clause 2 (1) (b).

(6) The panel created under subclause (5) is to consist of persons appointed to the panel by the Governor on the recommendation of the Minister being persons who, in the Minister's opinion, have an occupational, recreational or sporting involvement or expertise with firearms or ammunition or both.

(7) Subject to subclauses (8) and (9), a person remains on a panel for such period, not exceeding 3 years, as is specified in the person's instrument of appointment, and is eligible for reappointment.

(8) A person may resign from a panel by written notice to the Minister.

(9) The Governor may remove a person from a panel.

Remuneration

4. (1) Subject to subclause (2), an associate member of a tribunal is entitled to such remuneration and allowances in respect of the performance of the member's functions under this Act as the Minister from time to time determines on the recommendation of the Minister for Public Sector Management.

(2) Subclause (1) does not apply to a person employed in the Public Service.

Assignment of business to tribunals

5. (1) If an appeal to a tribunal is commenced, the CSM is to assign that appeal to a particular tribunal for determination.

(2) If the CSM considers it just and proper, the CSM may remove an appeal from a tribunal and assign it to another tribunal for determination.

Proceedings of a tribunal

6. (1) The presiding member shall appoint the time and place for the sittings of a tribunal and may adjourn its sittings from time to time.

(2) A tribunal may conduct proceedings by means of telephone or video conferencing.

(3) A tribunal is to act fairly, economically, informally and quickly in determining an appeal.

(4) A tribunal is to act according to the substantial merits of the case without regard to technicalities or legal form or precedent.

(5) To the extent that it is not prescribed by this Act or the regulations a tribunal shall determine its own procedure.

Quorum

7. (1) All 3 members must be present at any sitting of a tribunal.

(2) The decision of a majority of the members of a tribunal shall be the decision of the tribunal.

Parties

8. The parties to an appeal are the appellant and the respondent and any other person considered by the tribunal to have a sufficient interest in the matter.

Attendance, evidence and submissions

9. (1) A tribunal shall ensure that the parties to an appeal have reasonable notice of the sittings of the tribunal and shall give them reasonable opportunity to appear before the tribunal and call or give evidence, examine or cross-examine witnesses and make submissions.

(2) A party may also make written submissions to a tribunal.

(3) If either party does not appear at the time and place appointed for a sitting the tribunal may proceed with the determination of the appeal or adjourn the sitting to some other time.

Appearance or representation before a tribunal

10. (1) Subject to this clause, a party may —

(a) appear personally before a tribunal, either with or without an advocate; or

(b) be represented before a tribunal by an agent.

(2) A person who is a legal practitioner is not to appear as an advocate for, or represent, a party in proceedings before a tribunal.

(3) A tribunal may direct that a specified person is not to appear as an advocate for, or represent, the appellant in proceedings before the tribunal.

(4) A person who demands or receives any fee or reward for appearing as an advocate for, or representing, a party to proceedings before a tribunal commits an offence and is liable to a fine not exceeding \$1 000.

Powers of a tribunal

11. (1) A tribunal may summon persons required by the tribunal to give evidence before it and may examine those persons on oath or affirmation and may require the production of any documents, plans or other papers in the custody or control of any party.

(2) A tribunal is not bound by rules of evidence, but may inform itself on any matter in such manner as it thinks fit.

Offence

12. A person who —

- (a) having been served with a summons to attend before a tribunal, fails without reasonable excuse (proof of which lies upon the person) to attend in obedience to the summons;
- (b) having been served with a summons to produce before a tribunal any document, fails without reasonable excuse (proof of which lies upon the person) to comply with the summons;
- (c) misbehaves before a tribunal, wilfully insults a tribunal or any of its members, or interrupts the proceedings of a tribunal; or
- (d) fails without reasonable excuse (proof of which lies upon the person) to swear or affirm, or to answer any question, when required to do so by a tribunal,

commits an offence and is liable to a fine not exceeding \$2 000.

Costs

13. (1) Subject to subclause (2), the parties to an appeal are each to meet their own costs.

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(2) If an appeal is successful, the tribunal may, at its discretion, make an order for the payment by the Commissioner of expenses reasonably incurred by the appellant.

Reasons for determination

14. A tribunal shall give the parties to an appeal to the tribunal written reasons for the determination of the tribunal on the appeal.

Appeal to Supreme Court in certain cases

15. (1) Subject to subclause (2), any person aggrieved by a determination or order of a tribunal in proceedings before the tribunal to which the person was a party may appeal to the Supreme Court against the determination or order in the manner, and in the time, prescribed by the Rules of Court.

(2) An appeal does not lie to the Supreme Court from a determination or order of a tribunal unless the appeal involves a question of law.

(3) The Supreme Court may make such order as to costs as it thinks fit in relation to an appeal to the Supreme Court under this clause.

”.

Transitional regulations

39. (1) Regulations under section 34 of the principal Act may provide for the first renewal of a licence for a firearm after the commencement of the provisions of this Act other than section 16 to be effected at a time to be specified in the regulations, being a time that is earlier than would otherwise apply, and for related matters.

(2) The regulations may modify the operation of the principal Act for such time and to such extent as is necessary as a result of regulations made in accordance with subsection (1), but not so as to make a licence expire earlier than it otherwise would.

PART 3 — IDENTIFICATION AND INFORMATION

Section 4 amended

40. Section 4 of the principal Act is amended by inserting before the definition of “firearm” the following definition —

“
 “Extract of Licence” means a Firearms Act Extract of Licence referred to in, and issued under, section 22A;
”.

Sections 22A, 22B, and 22C inserted

41. After section 22 of the principal Act the following sections are inserted —

“
 Firearms Act Extract of Licence

22A. (1) The Commissioner may cause to be issued, in such form as the Commissioner may approve, a document to be known as a Firearms Act Extract of Licence to identify a person who —

- (a) is exempted by section 8 from the requirement to hold a licence under this Act;
- (b) is the holder of a licence granted, permit issued or approval given under this Act; or
- (c) is an employee authorized, by an organisation to which is issued a Corporate Licence, to possess, carry or use a firearm or ammunition,

setting out particulars of the exemption or of the licence, permit, approval or authorization held by that person.

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(2) Where a person has actual physical possession, or (otherwise than by way of storage) the custody or control, of a firearm, or ammunition for a firearm, to which any exemption, licence, permit, approval or authorization relates and that person has been issued with an Extract of Licence, that person —

- (a) is required to keep the Extract of Licence in their actual possession at all times except if it is impracticable to do so; and
- (b) is required, on request, to immediately produce that Extract of Licence for inspection by —
 - (i) a member of the Police Force; or
 - (ii) any person from whom the holder of the Extract of Licence is seeking to obtain services in relation to that firearm or ammunition.

Penalty: \$1 000.

(3) When seeking to obtain ammunition for a firearm to which the exemption, licence, permit, approval or authorization in respect to which the Extract of Licence was issued relates, a person to whom an Extract of Licence was issued is required, on request, to produce that Extract of Licence, or cause it to be produced, to the person from whom the ammunition is to be obtained.

Penalty: \$1 000.

(4) A person does not commit an offence under subsection (2) (b) (i) if the person is not in possession of the Extract of Licence when the request is made and, within 48 hours after being requested to produce the Extract of Licence, the person produces the Extract of Licence for inspection by the officer-in-charge of any police station.

(5) A person does not commit an offence under subsection (3) if, when requested to produce the Extract of Licence, the person discontinues seeking to obtain the ammunition.

(6) Regulations made under section 34 may —

- (a) require that a photograph of the face of the holder be included on the Extract of Licence, and provide for the manner in which that photograph is to be supplied;
- (b) require that an applicant for, or for the renewal of, a licence, permit, approval or authorization under this Act provide evidence of identity in a manner approved by the Commissioner;
- (c) provide for the use, and for the issue, expiry, renewal, return and cancellation, of Extracts of Licence; and
- (d) limit the application of this section to prescribed circumstances, or in relation to any specified case or class of case.

Return of Extract of Licence

22B. A person who was —

- (a) the subject of an exemption under section 8 that has ceased to apply;
- (b) the holder of a licence granted under this Act that has expired and has not been renewed, or that has been cancelled or revoked;
- (c) the holder of a permit, or approval given, under this Act that has expired, or been determined, cancelled or revoked; or

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- (d) authorized, pursuant to a Corporate Licence, to carry or use a firearm or ammunition and has ceased to be so authorized,

and who was issued with an Extract of Licence in respect of that exemption, licence, permit, approval or authorization is required, as soon as is practicable, to deliver to the Commissioner that Extract of Licence.

Penalty: \$1 000.

Offences relating to the Extract of Licence, licences, permits, etc.

- 22C.** (1) Any person who, without lawful authority —
- (a) alters an Extract of Licence, licence, permit, approval or authorization to which this Act applies;
 - (b) uses, or has in their possession, an Extract of Licence, licence, permit, approval or authorization to which this Act applies which has, without lawful authority, been altered;
 - (c) being the holder of an Extract of Licence, licence, permit, approval or authorization to which this Act applies, parts with possession of it in order that it may be used by any other person otherwise than as the agent of the holder;
 - (d) uses or attempts to use an Extract of Licence, licence, permit, approval or authorization to which this Act applies, issued in the name of another, otherwise than as the agent of the holder, to procure possession of any firearm or ammunition or any service to which this Act relates;

- (e) fraudulently obtains, or is in possession of, or uses an Extract of Licence, licence, permit, approval or authorization to which this Act applies; or
- (f) in relation to any application under this Act in respect of an Extract of Licence, licence, permit, approval or authorization to which this Act applies, supplies particulars or answers knowing them to be incorrect or misleading,

commits an offence.

Penalty: \$ 2 000.

(2) For the purposes of subsection (1) (a) and (b) any alteration, addition or erasure made by a member of the Police Force, or any other person exercising a function under this Act, is to be taken to have been made with lawful authority.

”.

Section 24 amended

42. Section 24 of the principal Act is amended —

(a) in subsection (1) —

(i) in paragraph (b), by deleting “permit,” and substituting the following —

“

permit or is exempt under section 8 from the requirement to hold a licence under this Act;

”;

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(ii) by inserting after paragraph (b) the following —

“

and

(c) if the licence or permit, or the authorization or exemption, is such that the person in possession of the firearm or ammunition should also be in possession of an Extract of Licence in respect of that licence, permit, authorization, or exemption, that Extract of Licence,

”;

and

(iii) by inserting, after “no such licence or permit”, the following —

“ , or no relevant Extract of Licence, ”;

and

(b) in subsection (6) (c), by inserting after “issued,” the following —

“

or any Extract of Licence issued in respect of any such licence or permit or in respect of any exemption or other authorization,

”.

Section 29 amended

43. Section 29 of the principal Act is amended in paragraph (a) by inserting after “permit” the following —

“ , or a particular Extract of Licence, ”.

Section 30 amended

44. Section 30 of the principal Act is amended by inserting at the end of the section the following subsection —

“

(5) If ammunition is disposed of by or on behalf of the holder of a Dealer’s Licence and the person who disposes of it (in this subsection called “**the provider**”) does not request the person receiving the ammunition (in this subsection called “**the receiver**”) to produce —

(a) a relevant licence or permit, or evidence of —

(i) exemption by section 8; or

(ii) a relevant authorization;

and

(b) an Extract of Licence in respect of that licence, permit, exemption, or authorization,

and inspect either an Extract of Licence or something referred to in paragraph (a), it is to be presumed in proceedings for an offence against this Act, upon proof that the provider disposed of the ammunition to the receiver, that there were no reasonable grounds to believe that the receiver was a person to whom the dealer would be authorized to dispose of that ammunition under subsection (1), unless the contrary is shown.

”.

PART 4 — PENALTIES

Section 6 amended

45. Section 6 (3) of the principal Act is repealed and the following subsection is substituted —

“

(3) Where no penalty is specifically provided, a person who contravenes a regulation made under subsection (1) commits an indictable offence and is liable, on conviction, to imprisonment for 5 years.

Summary conviction penalty: Imprisonment for 18 months or a fine of \$6 000.

”.

Section 7 amended

46. Section 7 (2) of the principal Act is repealed and the following subsection is substituted —

“

(2) A person who fails to comply with the requirements of a proclamation made under subsection (1) commits an indictable offence and is liable, on conviction, to imprisonment for 5 years.

Summary conviction penalty: Imprisonment for 18 months or a fine of \$6 000.

”.

Section 19 amended

47. Section 19 of the principal Act is amended —

- (a) in subsection (1), by deleting the penalty provision and substituting the following —

“

Penalty: Where —

- (a) in relation to the firearm concerned in the offence or a firearm of the same kind, the offender —
- (i) has been refused such a licence or permit;
 - (ii) is disqualified from holding such a licence or permit; or
 - (iii) has had such a licence or permit revoked;
- (b) the firearm concerned was a handgun;
- (c) any numbers or identification mark which was on the firearm has been defaced or removed; or
- (d) the firearm has been altered from the design or characteristics of its original manufacture,

imprisonment for 18 months or a fine of \$6 000; otherwise, imprisonment for 6 months or a fine of \$2 000.

”;

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- (b) in subsection (2), by deleting the penalty provision and substituting the following —

“
 Penalty: Where the firearm concerned was a handgun, imprisonment for 18 months or a fine of \$6 000; otherwise, imprisonment for 6 months or a fine of \$2 000.
 ”;

and

- (c) in subsection (4), by deleting “an offence.” and the penalty provision and substituting the following —

“
 an indictable offence and is liable, on conviction, to imprisonment for 5 years.
 ”;

Summary conviction penalty: Imprisonment for 18 months or a fine of \$6 000.
 ”.

Section 23 amended

48. Section 23 of the principal Act is amended —

- (a) in subsection (2), by deleting the penalty provision and substituting the following —

“
 Penalty:
 (a) if the firearm is loaded, imprisonment for 18 months or a fine of \$6 000; or
 (b) otherwise, imprisonment for 12 months or a fine of \$4 000.
 ”;

and

- (b) in subsection (5), by deleting “an offence.” and the penalty provision and substituting the following —

“ an indictable offence and is liable —

- (d) if the firearm concerned was a handgun, on conviction, to imprisonment for 5 years; or
- (e) otherwise, to imprisonment for 6 months or a fine of \$2 000.

Summary conviction penalty in a case to which paragraph (d) applies:
Imprisonment for 12 months or a fine of \$4 000.

”.

Sections 23C and 23D inserted

49. Before section 24 of the principal Act the following sections are inserted —

“

Persons concerned in commission of offences

23C. Without limiting section 7 of *The Criminal Code* or section 21A of this Act, a person who by act or omission is in any way directly or indirectly knowingly concerned in the commission of any offence against this Act is deemed to have committed that offence and is punishable accordingly.

Summary trial of indictable offences

23D. (1) Where for any offence under this Act triable on indictment offenders may be punished summarily under this section any court of petty sessions before which a person is charged with the offence, or which deals with the charge or examines the person charged, or commits the person for trial, is to be constituted by a magistrate alone, or, if there is no magistrate available and the person consents, by 2 Justices.

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(2) If a person is charged before a court of petty sessions with an offence under this Act triable on indictment the prosecutor may request the court to deal with the charge summarily and, if that request is made and the court, having regard to —

- (a) the nature and particulars of the offence;
- (b) such particulars of the circumstances relating to the charge and the antecedents of the person charged as the court may require from the prosecutor; and
- (c) whether or not it is appropriate to do so,

considers that the charge can be adequately dealt with summarily, the court is to deal with the charge, and the person is liable on summary conviction to the penalty set out after the words “Summary conviction penalty” appearing after the provision of this Act in respect to which the person was charged.

”.

Various other penalty changes

50. (1) The provisions of the principal Act referred to in the Table to this subsection, or their penalty provisions, are amended by deleting “\$100”, “\$200”, “\$400”, as the case requires, and substituting the following —

“ \$1 000 ”.

TABLE

section 19 (5)
 section 23 (9), (10), (10a), and (11)
 section 30 (4)
 section 34 (3) (d)

(2) Section 24 (6) of the principal Act is amended by deleting “\$200” and substituting the following —

“ \$2 000 ”.

(3) The penalty provision to each of the provisions of the principal Act referred to in the Table to this subsection is deleted and the following penalty provision is substituted —

“

Penalty: Imprisonment for 12 months or a fine
of \$4 000.

”.

TABLE

section 21 (2)
section 23 (1) and (7)

(4) Section 23 (6) of the principal Act is amended by deleting the penalty provision and substituting the following —

“

Penalty: Imprisonment for 18 months or a fine
of \$6 000.

”.

(5) The penalty provision to each of the provisions of the principal Act referred to in the Table to this subsection is deleted and the following penalty provision is substituted —

“ Penalty: Imprisonment for 2 years or a fine of \$8 000. ”.

TABLE

section 23 (8) and (9a)

PART 5 — MISCELLANEOUS

Amendments to the *Justices Act 1902*

51. Section 98 of the *Justices Act 1902** is amended, in subsection (2) and in subsection (3) respectively, by inserting, after “*The Criminal Code*”, the following —

“ or in section 23D (2) of the *Firearms Act 1973* ”.

[* *Reprinted as at 21 June 1995.*

For subsequent amendments see Acts Nos. 88 of 1994 and 14 of 1996.]

Amendments to the *Sentencing Act 1995*

52. (1) In this section the *Sentencing Act 1995** is referred to as the principal Act.

[* *Act No. 76 of 1995.*

For subsequent amendments see 1995 Index to Legislation of Western Australia, Table 1, p. 201 and Gazette 25 June 1996.]

(2) Section 106 (1) of the principal Act is amended by deleting “a firearms offence” and substituting the following —

“ an offence specified in subsection (4a) ”.

(3) Section 106 (3) of the principal Act is repealed and the following subsection is substituted —

“

(3) When an order is made under subsection (1), by force of this subsection any relevant licence, permit or approval held by the offender under the *Firearms Act 1973* —

(a) is suspended and has no effect for so long as the disqualification order is in force; or

(b) if the order so specifies, is cancelled.

”.

(4) Section 106 (4) of the principal Act is amended by deleting “firearms”.

(5) After section 106 (4) of the principal Act the following subsection is inserted —

“

(4a) This section applies to —

- (a) a firearms offence;
- (b) an offence involving assault with a weapon;
- (c) an offence involving violence.

”.

Minister to report on implementation of APMC Resolutions

53. (1) A reference to a “**Resolution**” in this section is a reference to a resolution of the Australasian Police Ministers’ Council meetings on 10 May 1996 and 17 July 1996.

(2) The Minister shall prepare a report on any Resolution that requires for its implementation —

- (a) any ministerial direction;
- (b) any other executive action;
- (c) the enactment of any Act; or
- (d) the making of any subsidiary legislation.

(3) The Minister shall cause copies of the report required by this section to be laid before each House of Parliament within 12 months after the commencement of the provisions of this Act other than section 16 or by 31 December 1997, whichever is the later.

(4) Without limiting the matters the subject of the report required by this section, the report must contain advice on the participation by this State in —

- (a) an effective nationwide firearms registration system in compliance with Resolution 2;
- (b) the development of uniform guidelines by licensing authorities in compliance with the Resolutions;
- (c) the development of an accredited course for firearms safety training in compliance with Resolution 5;
- (d) the implementation of national uniform standards for when a licence for a firearm is to be refused or cancelled in compliance with Resolution 6 including the development of criteria and systems for determining mental and physical fitness to own, possess or use a firearm;
- (e) the development of a national standard approach to the storage of firearms and ammunition in compliance with Resolution 8;
- (f) the provision of records to the National Register of Firearms in compliance with Resolution 9; and
- (g) the implementation of compensation and incentive issues and other action taken before and after the proposed 12 month national amnesty in compliance with Resolution 11.